

MONTANA LEGISLATIVE HISTORY

Chapter 183 19 87

Bill H _____ S 23

Original bill & history ✓ c

H. Committee on State Admin

Hearing Date(s) 3-11 ✓ c

_____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Judiciary

Hearing Date(s) 1-7 ✓ c

1-22 ✓ c

1-23 ✓ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

SENATE FINAL STATUS

2/03	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/11	2ND READING PASSED AS AMENDED	48	0
2/13	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/18	REFERRED TO TAXATION		
3/10	HEARING		
4/09	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
4/11	2ND READING CONCURRED	77	6
4/13	3RD READING CONCURRED	94	0
	RETURNED TO SENATE WITH AMENDMENTS		
4/16	2ND READING AMENDMENTS CONCURRED	50	0
4/17	3RD READING AMENDMENTS CONCURRED	50	0
4/21	SIGNED BY PRESIDENT		
4/21	SIGNED BY SPEAKER		
4/21	TRANSMITTED TO GOVERNOR		
4/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 583 EFFECTIVE DATE: 7/01/87		

SB 23 INTRODUCED BY HALLIGAN EXPAND OPEN MEETING LAW

1/05	INTRODUCED		
1/05	REFERRED TO JUDICIARY		
1/07	HEARING		
1/22	HEARING		
1/24	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/28	2ND READING PASSED	50	0
1/30	3RD READING PASSED	47	2
	TRANSMITTED TO HOUSE		
2/04	REFERRED TO STATE ADMINISTRATION		
3/11	HEARING		
3/11	COMMITTEE REPORT--BILL CONCURRED		
3/13	2ND READING CONCURRED	70	26
3/14	3RD READING CONCURRED	81	15
	RETURNED TO SENATE		
3/19	SIGNED BY PRESIDENT		
3/20	SIGNED BY SPEAKER		
3/20	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 183 EFFECTIVE DATE: 10/01/87		

SB 24 INTRODUCED BY HALLIGAN ALLOW HEARSAY AT DEPENDENT AND NEGLECT INVESTIGATIVE AUTHORITY HEARINGS

1/05	INTRODUCED		
1/05	REFERRED TO JUDICIARY		
1/06	HEARING		
1/07	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/10	2ND READING PASSED	44	0
1/13	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/04	REFERRED TO JUDICIARY		
3/03	HEARING		
3/10	COMMITTEE REPORT--BILL NOT PASSED		
3/11	ADVERSE COMMITTEE REPORT ADOPTED	64	7
3/11	RETURNED TO SENATE NOT CONCURRED		

1 SENATE BILL NO. 23
2 INTRODUCED BY HALLIGAN
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT
5 MEETINGS OF ORGANIZATIONS THAT HAVE PUBLIC AGENCY
6 REPRESENTATIVES AS MEMBERS AND THAT CONSIDER, RECOMMEND, OR
7 DICTATE POLICIES AND PROCEDURES GOVERNING PUBLICLY FUNDED
8 ACTIVITIES MUST BE OPEN TO THE PUBLIC; AND AMENDING SECTIONS
9 2-3-202 AND 2-3-203, MCA."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 2-3-203, MCA, is amended to read:

13 "2-3-203. Meetings ~~of--public--agencies~~ to be open to
14 public -- exceptions. (1) All meetings of ~~public---or~~
15 ~~governmental~~ the following bodies; must be open to the
16 public:17 (a) boards, bureaus, commissions, agencies of the
18 state, or any political subdivision of the state; or19 (b) organizations or agencies supported in whole or in
20 part by public funds or expending public funds ~~shall-be-open~~
21 ~~to-the-public; or~~22 (c) organizations or associations with members from
23 any of the public entities described in subsection (2)(a) or
24 (2)(b) and that consider, recommend, or dictate policies and
25 procedures governing publicly funded activities.

1 (2) Provided, however, the presiding officer of any
2 meeting may close the meeting during the time the discussion
3 relates to a matter of individual privacy and then if and
4 only if the presiding officer determines that the demands of
5 individual privacy clearly exceed the merits of public
6 disclosure. The right of individual privacy may be waived by
7 the individual about whom the discussion pertains and, in
8 that event, the meeting shall be open.

9 (3) However, a meeting may be closed to discuss a
10 strategy to be followed with respect to collective
11 bargaining or litigation when an open meeting would have a
12 detrimental effect on the bargaining or litigating position
13 of the public agency.

14 (4) Any committee or subcommittee appointed by a
15 public body for the purpose of conducting business which is
16 within the jurisdiction of that agency shall be subject to
17 the requirements of this section."

18 Section 2. Section 2-3-202, MCA, is amended to read:

19 "2-3-202. Meeting defined. As used in this part,
20 "meeting" means the convening of a quorum of the constituent
21 membership of a public agency or association described in
22 2-3-203, whether corporal or by means of electronic
23 equipment, to hear, discuss, or act upon a matter over which
24 the agency has supervision, control, jurisdiction, or
25 advisory power."

-End-

-2-

INTRODUCED BILL
SB-23

MONTANA LEGISLATIVE COUNCIL BILL STATUS SYSTEM
 FINAL COMMITTEE REPORT OF REFERRED BILLS
 COMMITTEE--(S) JUDICIARY

PAGE NBR..... 196
 RUN TIME08:32
 RUN DATE.... 04/22/87

CHAIRMAN--SEN. JOE MAZUREK
 NORMAL SCHEDULE==> SITE: ROOM 325

DAYS: MON THRU FRI

TIME: 10:00 A.M.

SECRETARY-MARY HUBER

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REFERRER TO COMM	DATE OUT
SB0002	1/05	1/16		PASS AS AMENDED		1/19
HAGER, TOM			PROVIDING LIEN RIGHTS FOR PHYSICAL THERAPISTS AND OCCUPATIONAL THERAPISTS			
SB0011	1/05	1/07		DO PASS		1/07
MAZUREK, JOSEPH P.			EFFECT TRANSFER TO MINOR BY TRANSFERRING SECURITY TO CUSTODIAL ACCOUNT			
SB0016	1/05	1/16		PASS AS AMENDED		1/19
HALLIGAN, MIKE			REQUIRE PRESALE NOTICE TO OWNER OF SALE TO ENFORCE AGISTER, SERVICE LIEN			
SB0020	1/05	1/16		PASS AS AMENDED		1/23
HALLIGAN, MIKE			GENERALLY REVISE MECHANICS LIEN LAW			
SB0023	1/05	1/22		PASS AS AMENDED		1/23
HALLIGAN, MIKE			EXPAND OPEN MEETING LAW			
SB0024		1/06		PASS AS AMENDED		1/06
HALLIGAN, MIKE			ALLOW HEARSAY AT DEPENDENT AND NEGLECT INVES. AUTHORITY HEARINGS			
SB0024	12/31					1/06
HALLIGAN, MIKE			ALLOW HEARSAY AT DEPENDENT AND NEGLECT INVES. AUTHORITY HEARINGS			
SB0025		1/06		DO PASS		1/06
GAGE, DELWYN			REGULATION OF PARENTS GIVING THEIR CHILDREN ALCOHOLIC BEVERAGES			
SB0025	12/31					1/06
GAGE, DELWYN			REGULATION OF PARENTS GIVING THEIR CHILDREN ALCOHOLIC BEVERAGES			
SB0033	1/03	1/13		ADVERSE REPORT	Tabled 1/26 JUDICIARY Referred back	1/16
LYNCH, JOHN (J.D.)			RESTITUTION AND SERVICE TO STORE OR COMMUNITY BY SHOPLIFTERS			
SB0033	1/19			TABLED	Tabled 1/30 Referred back 1/14	1/16
LYNCH, JOHN (J.D.)			RESTITUTION AND SERVICE TO STORE OR COMMUNITY BY SHOPLIFTERS			

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 7, 1987

The second meeting of the Senate Judiciary Committee was called to order at 10:05 a.m. on January 7, 1987 by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: Senator Halligan was excused, but all other members were present.

Chairman Mazurek clarified the use of the microphones in the committee room and also explained that SB 23 would still be heard with the absence of the sponsor, Senator Halligan.

CONSIDERATION OF SB 23: There was no opening statement to SB 23.

PROPOSERS: Nancy Newcomer, representing the Montana League of Women Voters, from Missoula gave support for the bill. She was concerned about the interpretation of the Open Meeting Law when used by organizations or associations. She used the Montana High School Association (MHSA) as an example for explaining this misinterpretation created by the Open Meeting Law. She explained that the League of Women Voters filed suit against the MHSA in May of 1985 with the intention of having MHSA strictly follow the Open Meeting Law. She commented that the MHSA did sign an agreement on the Open Meeting Law (see Exhibit 1, page 1). She said that by advise of counsel the League of Women Voters would have difficulty with Part 1 of Chapter 3 in the Montana Code Annotated (MCA) because it states that notice and participation in open meetings only applies to governmental agencies. She also pointed out in Part 2 of the Open Meeting Law that it states notice and participation only applies to governmental agencies and public bodies. Ms. Newcomer felt the MHSA has taken these certain sections of the law verbatim and not liberally as instructed in the legislative intent. She gave minutes of a conference call made by the MHSA Chairman, Mr. Sirokman, who called for an open meeting while in Helena when his speaker was on in his office in Valier, Montana (see Exhibit 1, page 4). Ms. Newcomer stated that she wrote a letter to the MHSA to inquire about copies of the public notices prior to conference calls. She said that the response from Mr. Dan Freund (see Exhibit 1, page 6) was correct because of the language used in the law at the present time. Ms. Newcomer commented that the MHSA Board of Directors had their National Federation Meeting in Las Vegas, Nevada and there they proceeded to have an open meeting. Ms. Newcomer questioned

this action of meeting out of the state since the MHSA had signed the Open Meeting Law agreement with the League of Women Voters. She presented another letter to the committee from Dan Freund stating there are no requirements in the law which states an agency or board governed by the provisions of that act must be held within the state (see Exhibit 1, page 7). Ms. Newcomer said she had a real hard time understanding an open meeting concerning Montana taking place in Las Vegas. She presented the committee with minutes from the Las Vegas meeting, which included action taken on two students, Jerusha Farr and Stephanie Hatzell. Ms. Newcomer explained that she contacted the two students' parents and found neither family knew of any MHSA decisions concerning their children (see Exhibit 1, page 9). Ms. Newcomer felt the law at the present gives no notice provision or right to participate unless one is under a governmental agency or Part 1 of Chapter 3 of the MCA. She agreed with the public funds section in SB 23, but wanted to see sections 2-3-102 and 2-3-202 of the Open Meeting Law combined. She also wanted section 2-3-101 to read . . . governmental agencies and public bodies . . . (see Exhibit 1, page 9).

Nancy Deden a parent of a high school student in Missoula supports the bill because of the difficulty she has experienced with the MHSA inability to get notices and agendas of meetings out to the public (see Exhibit 2, written testimony).

Martha Onishuk of Missoula felt the strengthening of the Open Meeting Law was very important because the public money used by organizations or associations should expect and welcome oversight by citizens, public officials and the press to justify receiving public support (see Exhibit 3, written testimony).

Eveline E. Curtis, Eureka, Montana, stated her support for the bill in written form (see Exhibit 4, written testimony).

Kim Wilson, lobbyist for Common Cause, supports the changes that Senator Halligan put in the bill, but not the language used in the bill. He stated Common Cause believes in the notice provision accompanying the open meeting section. He felt the language in the bill now does not address this correctly. He stated that Montana had one of the strongest constitutional open meeting laws in the nation and Montanans should be proud of this. For this reason he felt reluctant to change it, but he believed there were inconsistencies in the open meeting section as it exists now. He pointed out two parallel sections in the Bill of Rights; Article 2, Section 8, and Article 2, Section 9. He pointed out that Article 2, Section 8 of the Constitution and Section 2-3-101 of the MCA through 114 are addressed at state agencies. He felt both sections addressed the citizens access to the rule making process, and Article 2 Section 9 and MCA Section 2-3-201 discuss public bodies. He said sections

2 3 201, 2 3 202, 2 3 203 talk about agencies, boards, public bodies - and commissions. He explained 2 3 201 through 21 did not give a notice provision. He clarified sections 2 3 101 and 2 3 201 have a distinction because one is for rule making and one is for open meetings, but Article 2, Section 9 clearly gives notice to address the problem the League of Women Voters have had. He also proposed to taking another look at defining the words in the law.

George Ochenski, Montana Environmental Information Center, supported SB 23, and felt an informed citizenry is government's best friend and strongest ally.

OPPONENTS: Bruce Moerer, Montana School Board Association, explained MSBA did not know if this law would apply to MSBA, because the MSBA does not have regulatory powers (see witness sheet). He asked if a notice provision would be statewide or a notice provision to every resident in each community that is a member of MSBA. He felt mailing out a notice to each local newspaper would be quite costly. He said the MSBA is opposed to SB 23 mainly because they don't know how it applies to them.

Jesse Long, Executive Secretary for School Administrators of Montana, felt the bill was in vengeance against the Montan High School Association. He felt this vengeance against the MHSA has caused a shotgun effect on the other associations (see witness sheet).

Rose Skoog of the Montana Health Care Association (MHCA) stated her association is a private nonprofit trade association representing nursing homes around the state with educational lobbying and a variety of other representation. She explained the Montana Health Care Association would be catgeroized under the Open Meeting Law because some of the members use county property. She said the MHCA does have joint meetings out of the state with neighboring states' health care associations. She did not feel that was Senator Halligan's intent.

Bill Leary, President of the Hospital Association, said strict interpretation of this law would cause the Hospital Association to give notice to the press on their meetings. He said the association does recommend some policies to hospitals, but does not dictate policies to the hospitals. He said at the present time the association is opposed to SB 23.

DISCUSSION FROM THE COMMITTEE:

Senator Crippen asked if anyone from the MHSA was in the committee room. No one stepped forward, so Senator Crippen asked the committee to postpone until the MHSA had a chance to speak. Senator Blaylock questioned the MHSA's meeting in Las Vegas for the reason the funds used for the

trip come from basketball tournaments. He said he had problems in understanding this and would like to direct this question to the MHSA. Senator Pinsoneault asked Mr. Jesse Long who pays the school administrators dues to belong to the MHSA. Mr Long responded that half the dues are paid by school districts. He stated it is a fringe benefit from the school districts in substitution of salaries. Senator Pinsoneault asked if this was tax dollars used for the dues. Mr. Long replied yes it was. Senator Blaylock asked Mr. Long why school administrators don't pay their own dues. Mr. Long said 50% do pay and 50% use it as fringe benefit instead of taking an increase in salary.

Senator Mazurek felt SB 23 should be heard again because of the absence of Senator Halligan. He turned the chair over to Senator Crippen to present SB 11.

CONSIDERATION OF SB 11: Senator Mazurek introduced SB 11 which amends the Uniform Transfer to Minors Act. He told the committee that prior to 1985 if one wanted to place a security in a custodial account one had to set up a separate account anyone had to register the individual security as being a custodial security. He said it did not allow the use of a standard brokerage account in a stockbroker's office as a custodial account. He explained if a parent or guardian wanted to place a stock in a custody or ownership of the minor, they had to go through a separate registration process. The Commission of Uniform State Laws in 1985 changed the language that exists on lines 3, 4, and 5 on page two of SB 11 to accomplish what he had introduced. He said the bill makes it clear that a person who wants to place a security in a custodial account can do it by using a standard street account. They don't have to set up a separate brokerage account and register each security that they want to place in a custodial account. The National Association of Security Dealers and brokers requested this amendment. (see SB 11 summary).

PROPOSERS: None

OPPOSERS: None

Senator Mazurek closed on SB 11.

DISCUSSION FROM THE COMMITTEE:

Senator Beck asked if the Internal Revenue Department would have problems defining and registering custodial accounts as a gift. Senator Mazurek responded by including the amendment the Internal Revenue would have to accept the new law.

ACTION ON SB 11: Senator Crippen moved SB 11 DO PASS. SB 11 was voted unanimously DO PASS from the committee.

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan 7th, 1988

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	X		
<u>Senator Bruce Crippen, Vice Chairman</u>	X		
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		personal reason
<u>Senator Chet Blaylock</u>	X		
<u>Senator Bob Brown</u>	X		
<u>Senator Jack Galt</u>	X		
<u>Senator Mike Halligan</u>			
<u>Senator Dick Pinsoneault</u>	X		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

VISITORS' REGISTER

SENATE AND HOUSE COMMITTEE _____

BILL 23

DATE _____

SPONSOR _____

NAME	REPRESENTING	RESIDENCE	SUPPORT	OPP
Kathy Karp	MT LWV	Helena	✓	
Nancy Dedn	PARENT	Missoula	✓	
Kara Kermutz	LWV-MT	Helena		
Erin Deane	NSA	Helena		
Marty Dushell	LWV-MT	Missoula	✓	
Bruce Henry	Parent	Missoula	✓	
Sandy Mardinger	LWV MT	Helena	✓	
George Moore	MSA	HELENA		
Shirley Jensen	AFSCME	Helena		
Jim May	AFSCME	HELENA		
Ken Wilson	Comm Cwr	Helena		
ROSE SKOOG	MT. HEALTH CARE	Helena		✓
William Leary	MT. Hospital Assn	Helena		✓
Bruce W. Lee	MSA	Helena		
Debi Brammer	MACD	Helena		proposition
Bob Corra	Boy Co/C	Bozeman		✓
GEORGE CURENSKI	MERC	Helena	✓	
Rich Meis	NEIC	Helena		
Jesse Long	School Alumni of MT	Helena		✓
Margaret Davis	LWV MT	Helena	✓	amend

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

2-2-304. Penalty for violation of nepotism law. Any public officer or employee or any member of any board, bureau, or commission of this state or any political subdivision thereof who shall, by virtue of his office, have the right to make or appoint any person to render services to this state or any subdivision thereof and who shall make or appoint to such services or enter into any agreement or promise with any other person or employee or any member of any board, bureau, or commission of any other department of this state or any of its subdivisions to appoint to any position any person or persons related to him or them or connected with him or them by consanguinity within the fourth degree or by affinity within the second degree shall thereby be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not less than \$50 or more than \$1,000 or by imprisonment in the county jail for not less than 6 months or by both such fine and imprisonment.

History: En. Sec. 3, Ch. 12, L. 1933; re-en. Sec. 456.3, R.C.M. 1935; R.C.M. 1947, 59-520.

SENATE JUDICIARY

EXHIBIT NO. 1

DATE Jan 7th, 1987

BILL NO. SB 23

CHAPTER 3

PUBLIC PARTICIPATION IN GOVERNMENTAL OPERATIONS

Part 1 — Notice and Opportunity to Be Heard

- Section
- 2-3-101. Legislative intent.
 - 2-3-102. Definitions.
 - 2-3-103. Public participation — governor to insure guidelines adopted.
 - 2-3-104. Requirements for compliance with notice provisions.
 - 2-3-105. Supplemental notice by radio or television.
 - 2-3-106. Period for which copy retained.
 - 2-3-107. Proof of publication by broadcast.
 - 2-3-108 through 2-3-110 reserved.
 - 2-3-111. Opportunity to submit views.
 - 2-3-112. Exceptions.
 - 2-3-113. Declaratory rulings to be published.
 - 2-3-114. Enforcement.

Part 2 — Open Meetings

- 2-3-201. Legislative intent — liberal construction.
- 2-3-202. Meeting defined.
- 2-3-203. Meetings of public agencies to be open to public — exceptions.
- 2-3-204 through 2-3-210 reserved.
- 2-3-211. Recording.
- 2-3-212. Minutes of meetings — public inspection.
- 2-3-213. Voidability.
- 2-3-214 through 2-3-220 reserved.
- 2-3-221. Costs to plaintiff in certain actions to enforce constitutional right to know.

Part 1

Notice and Opportunity to Be Heard

2-3-101. Legislative intent. The legislature finds and declares pursuant to the mandate of Article II, section 8, of the 1972 Montana constitution that

legislative guidelines should be established to secure to the people of Montana their constitutional right to be afforded reasonable opportunity to participate in the operation of governmental agencies prior to the final decision of the agency.

History: En. 82-4226 by Sec. 1, Ch. 491, L. 1975; R.C.M. 1947, 82-4226.

2-3-102. Definitions. As used in this part, the following definitions apply:

- (1) "Agency" means any board, bureau, commission, department, authority, or officer of the state or local government authorized by law to make rules, determine contested cases, or enter into contracts except:
 - (a) the legislature and any branch, committee, or officer thereof;
 - (b) the judicial branches and any committee or officer thereof;
 - (c) the governor, except that an agency is not exempt because the governor has been designated as a member thereof; or
 - (d) the state military establishment and agencies concerned with civil defense and recovery from hostile attack.
- (2) "Rule" means any agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule but does not include:
 - (a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public; or
 - (b) declaratory rulings as to the applicability of any statutory provision or of any rule.
- (3) "Agency action" means the whole or a part of the adoption of an agency rule, the issuance of a license or order, the award of a contract, or the equivalent or denial thereof.

History: En. 82-4227 by Sec. 2, Ch. 491, L. 1975; amd. Sec. 23, Ch. 285, L. 1977; amd. Sec. 1, Ch. 452, L. 1977; R.C.M. 1947, 82-4227(part); amd. Sec. 1, Ch. 243, L. 1979.

2-3-103. Public participation — governor to insure guidelines adopted. (1) Each agency shall develop procedures for permitting and encouraging the public to participate in agency decisions that are of significant interest to the public. The procedures shall assure adequate notice and assist public participation before a final agency action is taken that is of significant interest to the public.

(2) The governor shall insure that each board, bureau, commission, department, authority, agency, or officer of the state adopts coordinated rules for its programs, which guidelines shall provide policies and procedures to facilitate public participation in those programs, consistent with subsection (1) of this section. These guidelines shall be adopted as rules and published in a manner which may be provided to a member of the public upon request.

History: En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec. 24, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4228(1), (5).

Cross-References

Right of public participation in government.
Art. II, sec. 8, Mont. Const.

Adoption of rules, 2-4-302.

Publication of rules — availability, 2-4-312.

SENATE JUDICIARY

EXHIBIT NO. 1

DATE Jan 7, 1987

BILL NO. SB 23

2-3-104

GOVERNMENT STRUCTURE
AND ADMINISTRATION

150

2-3-104. Requirements for compliance with notice provisions. An agency shall be considered to have complied with the notice provisions of 2-3-103 if:

(1) an environmental impact statement is prepared and distributed as required by the Montana Environmental Policy Act, Title 75, chapter 1;

(2) a proceeding is held as required by the Montana Administrative Procedure Act;

(3) a public hearing, after appropriate notice is given, is held pursuant to any other provision of state law or a local ordinance or resolution; or

(4) a newspaper of general circulation within the area to be affected by a decision of significant interest to the public has carried a news story or advertisement concerning the decision sufficiently prior to a final decision to permit public comment on the matter.

History: En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec. 24, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4228(2).

Cross-References

Montana Administrative Procedure Act — proceedings, 2-4-302, 2-4-306, 2-4-601.

Publication and content of local government notices, 7-1-2121.

2-3-105. Supplemental notice by radio or television. (1) Any official of the state or any of its political subdivisions who is required by law to publish any notice required by law may supplement such publication by a radio or television broadcast of a summary of such notice or by both of such broadcasts when in his judgment the public interest will be served.

(2) The summary of such notice shall only be read with no reference to any person by name then a candidate for political office.

(3) Such announcements shall be made only by duly employed personnel of the station from which such broadcast emanates.

(4) Announcements by political subdivisions may be made only by stations situated within the county of origin of the legal notice unless no broadcast station exists in such county, in which case announcements may be made by a station or stations situated in any county other than the county of origin of the legal notice.

History: En. Sec. 1, Ch. 149, L. 1963; R.C.M. 1947, 19-201.

2-3-106. Period for which copy retained. Each radio or television station broadcasting any summary of a legal notice shall for a period of 6 months subsequent to such broadcast retain at its office a copy or transcription of the text of the summary as actually broadcast, which shall be available for public inspection.

History: En. Sec. 2, Ch. 149, L. 1963; R.C.M. 1947, 19-202.

2-3-107. Proof of publication by broadcast. Proof of publication of a summary of any notice by radio or television broadcast shall be by affidavit of the manager, an assistant manager, or a program director of the radio or television station broadcasting the same.

History: En. Sec. 3, Ch. 149, L. 1963; R.C.M. 1947, 19-203.

Cross-References

Affidavit defined, 26-1-1001.

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PUBLIC PARTICIPATION
IN GOVERNMENTAL OPERATIONS

2-3-201

2-3-108 through 2-3-110 reserved.

2-3-111. Opportunity to submit views. Procedures for assisting public participation shall include a method of affording interested persons reasonable opportunity to submit data, views, or arguments, orally or in written form, prior to making a final decision that is of significant interest to the public.

History: En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec. 24, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4228(3).

Cross-References

Right of public participation in government, Art. II, sec. 8, Mont. Const.

2-3-112. Exceptions. The provisions of 2-3-103 and 2-3-111 do not apply to:

(1) an agency decision that must be made to deal with an emergency situation affecting the public health, welfare, or safety;

(2) an agency decision that must be made to maintain or protect the interests of the agency, including but not limited to the filing of a lawsuit in a court of law or becoming a party to an administrative proceeding; or

(3) a decision involving no more than a ministerial act.

History: En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec. 24, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4228(4).

Cross-References

Emergency rules, 2-4-303.

Disaster and emergency services, Title 10, ch. 3.

2-3-113. Declaratory rulings to be published. The declaratory rulings of any board, bureau, commission, department, authority, agency, or officer of the state which is not subject to the Montana Administrative Procedure Act shall be published and be subject to judicial review as provided under 1-4-623(6) and 2-4-501, respectively.

History: En. 82-4227 by Sec. 2, Ch. 491, L. 1975; amd. Sec. 23, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4227(part); amd. Sec. 3, Ch. 184, L. 1979.

2-3-114. Enforcement. The district courts of the state have jurisdiction to set aside an agency decision under this part upon petition made within 30 days of the date of the decision of any person whose rights have been prejudiced.

History: En. 82-4229 by Sec. 4, Ch. 491, L. 1975; amd. Sec. 25, Ch. 285, L. 1977; R.C.M. 1947, 82-4229.

Part 2

Open Meetings

2-3-201. Legislative intent — liberal construction. The legislature finds and declares that public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples' business. It is the intent of this part that actions and deliberations of all public agencies shall be conducted openly. The people of the state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of the part shall be liberally construed.

Cross-References

Right of public to examine documents or to observe deliberations of public bodies, Art. II, sec. 9, Mont. Const.

2-3-202. Meeting defined. As used in this part, "meeting" means the convening of a quorum of the constituent membership of a public agency, whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power.

History: En. 82-3404 by Sec. 2, Ch. 567, L. 1977; R.C.M. 1947, 82-3404.

2-3-203. Meetings of public agencies to be open to public — exceptions. (1) All meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds shall be open to the public.

(2) Provided, however, the presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting shall be open.

(3) However, a meeting may be closed to discuss a strategy to be followed with respect to collective bargaining or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the public agency.

(4) Any committee or subcommittee appointed by a public body for the purpose of conducting business which is within the jurisdiction of that agency shall be subject to the requirements of this section.

History: En. Sec. 2, Ch. 159, L. 1963; amd. Sec. 1, Ch. 474, L. 1975; amd. Sec. 1, Ch. 567, L. 1977; R.C.M. 1947, 82-3402; amd. Sec. 1, Ch. 380, L. 1979.

Cross-References

Right of public to observe deliberations of all public bodies, Art. II, sec. 9, Mont. Const.

Right of individual privacy, Art. II, sec. 10, Mont. Const.

Notice of agency action required, 2-3-103.
Deliberations of medical legal panel to be secret, 27-6-603.
Criminal penalty for closed meeting — official misconduct, 45-7-401.

2-3-204 through 2-3-210 reserved.

2-3-211. Recording. Accredited press representatives may not be excluded from any open meeting under this part and may not be prohibited from taking photographs, televising, or recording such meetings. The presiding officer may assure that such activities do not interfere with the conduct of the meeting.

History: En. 82-3405 by Sec. 4, Ch. 567, L. 1977; R.C.M. 1947, 82-3405.

2-3-212. Minutes of meetings — public inspection. (1) Appropriate minutes of all meetings required by 2-3-203 to be open shall be kept and shall be available for inspection by the public.

(2) Such minutes shall include without limitation:

(a) date, time, and place of meeting;

(b) a list of the individual members of the public body, agency, or organization in attendance;

(c) the substance of all matters proposed, discussed, or decided; and

(d) at the request of any member, a record by individual members of any votes taken.

History: En. Sec. 3, Ch. 159, L. 1963; amd. Sec. 3, Ch. 567, L. 1977; R.C.M. 1947, 82-3403.

Cross-References

Citizens entitled to inspect and copy records, 2-6-102.

Records open to public inspection, 2-6-104.

2-3-213. Voidability. Any decision made in violation of 2-3-203 may be declared void by a district court having jurisdiction. A suit to void any such decision must be commenced within 30 days of the decision.

History: En. 82-3406 by Sec. 5, Ch. 567, L. 1977; R.C.M. 1947, 82-3406.

2-3-214 through 2-3-220 reserved.

2-3-221. Costs to plaintiff in certain actions to enforce constitutional right to know. A plaintiff who prevails in an action brought in district court to enforce his rights under Article II, section 9, of the Montana constitution may be awarded his costs and reasonable attorneys' fees.

History: En. 93-8632 by Sec. 1, Ch. 493, L. 1975; R.C.M. 1947, 93-8631.

CHAPTER 4

ADMINISTRATIVE PROCEDURE ACT

Part 1 — General Provisions

Section

- 2-4-101. Short title.
- 2-4-102. Definitions.
- 2-4-103. Rules and statements to be made available to public.
- 2-4-104. Subpoenas and enforcement — compelling testimony.
- 2-4-105. Representation by counsel.
- 2-4-106. Service.
- 2-4-107. Construction and effect.

Part 2 — Organizational and Procedural Rules

- 2-4-201. Rules describing agency organization and procedures.
- 2-4-202. Model rules.

Part 3 — Adoption and Publication of Rules

- 2-4-301. Authority to adopt not conferred.
- 2-4-302. Notice, hearing, and submission of views.
- 2-4-303. Emergency rules.
- 2-4-304. Informal conferences and committees.
- 2-4-305. Requisites for validity — authority and statement of reasons.
- 2-4-306. Filing, format, and effective date — dissemination of emergency rules.
- 2-4-307. Omissions from ARM or register.
- 2-4-308. Adjective or interpretive rule — statement of implied authority and legal effect.
- 2-4-309 and 2-4-310 reserved.
- 2-4-311. Publication and arrangement of ARM.

SENATE JUDICIARY

EXHIBIT NO. 1

DATE Jan. 7, 1987

BILL NO. SB 23

SENATE JUDICIARY

EXHIBIT NO. 1

DATE Jan. 7, 1987

BILL NO. SB 23

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SENATE JUDICIARY

EXHIBIT NO. 1, page 1DATE Jan. 7, 1987BILL NO. SB 23RELEASE OF CLAIM AND STIPULATION FOR DISMISSAL

COMES NOW the League of Women Voters of Montana (LWV) and the Montana High School Association (MHSA), by and through their respective counsel of record, and

W I T N E S S E I H:

WHEREAS, a Petition for Relief has been filed in the District Court of the First Judicial District of the State of Montana in and for the County of Lewis and Clark, Cause No. BDV-85-462, styled League of Women Voters of Montana, et al., v. Montana High School Association, et al., and alleging a violation of Montana's Open Meetings Law and Constitution, Article II, Section 9; and,

WHEREAS, MHSA has filed a motion to dismiss the said Petition upon grounds that the Respondent is not a "public body" within the meaning of the Montana Open Meetings Law and Constitution; and,

WHEREAS, the parties have settled their differences and wish to memorialize the same in this document and to dispose of the Petition for Relief and litigation associated, therewith.

NOW, THEREFORE, LWV and MHSA agree as follows:

1. MHSA shall, from the date of this agreement, abide by the provisions of the Montana Constitution,

SENATE JUDICIARY

EXHIBIT NO. 1, page 1DATE Jan. 7, 1987BILL NO. SB 23

COPY

Article II, Section 9, as it is statutorily implemented in the Montana Open Meetings Law, Sections 2-3-201 through 2-3-221, MCA, and any Montana Supreme Court decisions construing those provisions; and,

2. In the event a Petition for Relief against MHSA is filed by the League of Women Voters alleging a violation of the Montana Constitution, Article II, Section 9, as it is statutorily implemented in the Montana Open Meetings Law, the MHSA agrees not to assert, and does hereby waive, asserting the defense that they are not a "public body" within the meaning of the Montana Open Meetings Law, in any such lawsuit; and,

3. MHSA will not defend any such suit upon the grounds that the LWV or any member, thereof, was not present at the meeting in which the alleged violation occurred.

In consideration of the foregoing, LWV agrees to dismiss its Petition for Relief in Cause No. BDV-85-462, with prejudice.

Each of the parties agree to pay its own attorney's fees and costs associated with this action and to jointly request dismissal of the lawsuit of the Petition for

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EXHIBIT NO. 1, page 2

DATE Jan. 7, 1987

BILL NO. 5823

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Relief based upon the terms and conditions set forth,
herein.

DATED this 24th day of January, 1986.

LEAGUE OF WOMEN VOTERS OF MONTANA, et al.

By:

PETER MICHAEL MELOY
THE MELOY LAW FIRM
P.O. Box 1241
Helena, Montana 59624

MONTANA HIGH SCHOOL ASSOCIATION, et al.

By: Sarah M. Power

SARAH M POWER
GOUGH, SHANAHAN, JOHNSON & WATERMAN
P.O. Box 1715
Helena, Montana 59624

60545

COPY

MHSA Office
March 5, 1986
Helena, Montana

MINUTES OF A TELEPHONE CONFERENCE CALL

Mr. Sirokman called the conferees to order at 11:22 a.m. He stated that the open meeting was in effect and his speaker was on in his office in Valier.

Present on the call were Vice President Bill Vogt, Kalispell; Supt. Tom Warwick, Ennis; Principal James E. Wood, Sidney; Tammy Hall, Bozeman; Executive Secretary Dan Freund and Assistant Executive Secretary Jim Haugen and 12 school administrators who were concerned with the 1, 2 and 3-B alignments for sports. Mr. Sirokman explained how the call would be handled and asked each speaker to be brief with his opinions as to what should be done with those particular alignments. The following people then addressed the Board of Directors and there were questions and discussion following each speaker: Superintendent Conrad Robertson, Columbus, Superintendent Jim Stanton, Baker; Principal Glenn Viker, Broadus; Superintendent Dick Webb, Big Timber; Principal Dennis Hamilton, Three Forks; Superintendent Larry LaCounte, Lodge Grass; Superintendent Dave Peters, Red Lodge; Principal Ed Goyette, Forsyth; Superintendent Ramona Stout, Huntley Project; Superintendent Bob Krogh, Roundup; Superintendent Bob Sindelar, Shepherd. The main issue with all of those members was the placement of Broadus and all spoke against Broadus leaving Division 1-2B for 3-B, except Broadus themselves.

After the Board discussed the issue, motion by Warwick, second by Wood to leave Broadus in 1-2, B for athletics. Carried.

Big Timber's request was also to be placed in 3-B because of travel now that Deer Lodge was in their conference. There was no action taken on Big Timber's request.

Mr. Sirokman thanked all the administrators. Those folks excused themselves from the conference call.

The issue with Harlem was then discussed concerning Harlem's request to go to 6-B and the Board's notification that Harlem would be placed there during the special meeting held two weeks previously.

Motion by Wood, seconded by Vogt to leave Harlem in 5-B for basketball. Carried.

Mr. Freund said there was also a request by Hamilton High School from Mr. Johnson to reconsider the large-small concept in Class "A" football on the west side of the state for '86-'87. After brief discussion, motion by Wood, second by Warwick to deny that reconsideration request. Carried.

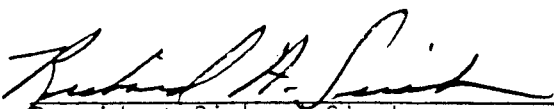
Mr. Haugen was asked by Mr. Sirokman to report on the wrestling survey as to the change of the time of seasons.

SENATE JUDICIARY
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DATE Jan. 7, 1987
FILE NO. SB 23

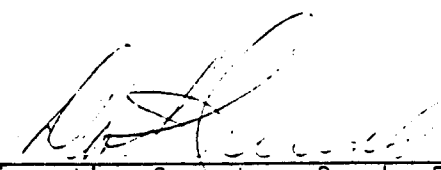
The Assistant Executive Secretary reported that 34 schools were for change that would place wrestling after the first of the year and 33 were against that change. Motion by Vogt, second by Wood that no change would take place in the wrestling season. Carried.

Mr. Sirokman ordered that each school pay for its portion of the phone call for the minutes during which they spoke and terminated the call at 11:43 a.m. The charge for the call was \$330.63 for 52 minutes of speaking time, charged out at \$6.36 a minute, to be prorated among the schools that spoke and the remainder to the M.H.S.A.:

Conrad Robertson, Columbus, \$38.16
Jim Stanton, Baker - \$6.36
Glenn Viker, Broadus - \$19.08
Dick Webb, Big Timber - \$12.72
Dennis Hamilton, Ghree Forks - \$12.72
Larry LaCounte, Lodge Grass - \$12.72
Dave Peters, Red Lodge - \$12.72
Ed Goyette, Forsyth - \$19.08
Ramona Stout, Huntley - \$12.72
Robert Krogh, Roundup - \$6.36
Richard Sindelar - Shepherd - \$12.72



President Richard Sirokman



Executive Secretary Dan L. Freund

SENATE JUDICIARY

EXHIBIT NO. 1, page 5

DATE Jan. 7, 1987

BILL NO. SB 23



Montana High School Association

1 South Dakota Avenue Helena, MT 59601 (406) 442-6010

EXECUTIVE STAFF

Dan L. Freund
Executive Secretary
James C. Haugen
Assistant Executive Secretary
Mike A. Colbrese
Assistant to the
Executive Secretary

BOARD OF DIRECTORS

Supt. Richard Srokman, Pres.
Valer
Prin. Bill Vogt, Vice Pres.
Flathead (Kalispell)
Supt. Tom Warwick
Ennis
Prin. James Wood
Sidney
Tammy Hall
Bozeman
(Mont. School Boards Assoc.)

June 25, 1986

Nancy Newcomer, Director
12 Parsons Drive
Missoula, MT 59802

Dear Ms. Newcomer:

Please be advised that the answer to your letter received in this office on June 14, 1986, asking for copies of the public notice that was given prior to the March 5 and 17, 1986 MHSA conference call meetings, I would advise you as follows.

Under the conditions set forth we do not believe that it was necessary to give public notice prior to the conference phone calls on March 5th and 17th. The business was conducted as per the open meeting law with all access to telephone speakers available and all interested parties.

Sincerely,

MONTANA HIGH SCHOOL ASSOCIATION

Dan L. Freund
Executive Secretary

DLF:rcw
cc: Ron Waterman

COPY

SENATE JUDICIARY

EXHIBIT NO. 1, page 6
DATE Jan 7, 1986
BILL NO. SB 23



Montana High School Association

1 South Dakota Avenue Helena, MT 59601 (406) 442-6010

EXECUTIVE STAFF

Dan L. Freund
Executive Secretary
James C. Haugen
Assistant Executive Secretary
Mike A. Colbrese
Assistant to the
Executive Secretary

BOARD OF DIRECTORS

Supt. Richard Sirokman, Pres
Valer
Prim. Bill Vogt, Vice Pres
Flathead (Kalispell)
Supt. Tom Warwick
Ennis
Prim. James Wood
Salisbury
Lammy Hall
Bozeman
(Mont. School Boards Assoc.)

June 25, 1986

COPY

Bev Henry
413 Artemos Drive
Missoula, MT 59803

Dear Mrs. Henry:

In reply to your letter received in this office June 11, 1986 regarding the grievance because of failure to follow the Open Meeting Law in the scheduling of the MHSA June meeting sometime between June 30 and July 2 at the Riviera Hotel in Las Vegas, I would advise you as follows.

There is no requirement in the Montana Open Meeting Law which states specifically that an agency or board governed by the provisions of that act must meet within the confines of the state of Montana to conduct its business. Likewise, although the Articles of Incorporation designate the Montana High School Association offices at One South Dakota as its principal office for the transaction of its business, there is nothing in the Montana Articles of Incorporation or Bylaws which require the Montana High School Association to conduct the meeting in Montana or at its principal place of business.

Nevertheless, since my last communication with Nancy Deden, the MHSA Board of Directors will not be making final decisions on the placement of tournament sites. It will be done upon the return of the MHSA Board to Montana and will be acted on officially by conference phone call.

Other items, however, will be officially acted on concerning any petitions for a waiver of the transfer rule that may have been filed before the meeting date.

We hope this clarifies the issue.

Sincerely,

MONTANA HIGH SCHOOL ASSOCIATION
Dan L. Freund
Executive Secretary

DLF:jrs

SENATE JUDICIARY

EXHIBIT NO. 1, page 7

DATE Jan 7, 1987

SB 23

COPY

Riviera Hotel
Las Vegas, Nevada
June 29, 1986

MINUTES OF A MEETING OF THE MHSA BOARD OF DIRECTORS

President Richard Sirokman called the meeting to order at 6 p.m. Present at the meeting were Superintendent Tom Warwick of Ennis, Principal Jim Wood of Sidney, Tammy Hall of Bozeman and the Executive Staff.

The first item of business was the review of the Financial Report of the State Softball Tournament held in Helena, and a request for financial aid from Athletic Director Cecil Warren because of losses incurred by that tournament.

There was a lengthy discussion concerning the financial loss of the first MHSA-sponsored State Softball Tournament.

A motion was made by Hall to pay Helena schools the difference between sending their teams out of town to a tournament and that of keeping them in town at the site and not having to pay expenses. Motion died for lack of a second.

A motion was made by Sirokman and seconded by Wood to table the request, to discuss the item with Cecil Warren concerning resolving the issue and to place the same on the Board of Directors September Board Meeting Agenda. Motion carried.

Petitions for Waiver of the Transfer Rule were reviewed by the Board of Directors. A motion was made by Hall and seconded by Wood to deny the Petition for Waiver of the Transfer Rule filed on behalf of Jerusha Farr by Missoula Sentinel High School. Motion carried.

A motion was made by Wood and seconded by Warwick to deny the Petition for the Waiver of the Transfer Rule filed on behalf of Stephanie Hatzell by Red Lodge High School. Motion carried.

There was a lengthy discussion over the Eastern A schedule problems - i.e. Livingston not honoring the Eastern A schedule and allegedly some other schools not honoring the schedule also in various sports.

Various solutions to the problems were reviewed by the Board of Directors.

A motion was made by Hall and seconded by Warwick to allow the present Livingston schedule and other school's schedules to be played (not the original Eastern A schedules) but that any games not played in that original Eastern A schedule be counted as forfeits (pending MHSA counsel agreement). Motion carried. Be it noted that Mr. Wood abstained from voting.

Assignments were made by President Sirokman for attendance at the various National Federation workshops.

President Sirokman recessed the meeting at 7:20 p.m. and reconvened the group at 9:30 a.m. on Wednesday, July 2, 1986.

SENATE JUDICIARY
EXHIBIT NO. 1, page 8
DATE Jan. 7, 1987

3535 Pattee Canyon Road
Missoula, MT 59803
January 6, 1987

The Honorable Michael Halligan
State Senator
P.O. Box 9121
Missoula, MT 59807

COPY

Dear Senator Halligan:

In April of 1986 the Montana High School Association declared my daughter, Jerusha Farr, ineligible to participate in varsity level sports at Sentinel High School in Missoula because she had transferred from one high school to another without a corresponding move by her parents as stipulated in Section 12 of the Association Handbook.

In my opinion Jerusha had not transferred but had arranged for a four-month leave to attend a ski academy, Stratton Mountain School. This academy is a private institution without interscholastic athletics, and her purpose in attending was to take advantage of their unique coaching and competitive opportunities to develop her skiing talents--opportunities missing in Montana and in a sport not offered by the Montana High School Association.

Jerusha left Sentinel November 18, 1985 and reenrolled on March 24, 1986. After reenrollment in the same classes, with the same teachers, at the same times, Jerusha was informed of her ineligibility for what I believe to be erroneous causes.

I asked on April 22 for an interpretation of the rules. Dan L. Freund, Executive Secretary, informed Richard Correll, Principal of Sentinel High School, on April 30, 1986 that the Board of Directors during a conference call on April 29 had ruled Jerusha ineligible. The Board, however, did point out that possibly a Hardship Petition could be filed.

The Hardship Petition was filed and supported by Richard Correll on the grounds that she transferred to Stratton "for the purpose of receiving instruction in cross country skiing which is an activity that is not sponsored by the Montana High School Association and, therefore, it appears that the transfer rule should not apply in Jerusha's case."

On July 10, 1986 Mr. Correll called to inform me that the MHSA had met and denied Jerusha's appeal on the Hardship Petition and what, should we want to appeal, legal steps I needed to take.

SENATE JUDICIARY

EXHIBIT NO. 1, page 9

DATE Jan. 7, 1987

FILE NO. 42 72

The Honorable Michael Halliga
January 6, 1987
page 2

I called Dan Freund, Executive Secretary, in Helena that same day and he thought the Board was fully informed of Jerusha's situation and he said he could hold out no hope that they would change their minds.

In all of this, I had numerous conversations with Mr. Freund and Mr. Correll and at no time was I made aware that the Montana High School Association came under the provisions of Montana's Open Meeting Law. In fact, later it came to light that the decision to declare Jerusha ineligible was made out of state via a conference call. I was denied participation in the discussion of my daughter's case and I was not given notice, timely or otherwise--both of which are guaranteed by the Montana Open Meeting Law. The Montana High School Association violated their agreement with the Montana League of Women Voters and they harmed the athletic career of my daughter which may have repercussions in her selection of colleges.

MHSA prevented my daughter from competing in both Spring track and Fall cross country running, both competitive seasons in which she had excelled. Instead of encouraging athletic participation, they hindered it. She has been harmed.

I can only hope that you change the law to force the MHSA to give timely notice and to abide by the Open Meeting Law.

Sincerely,

William Farr

William Farr

SENATE JUDICIARY

EXHIBIT NO. 1, page-10

DATE Jan 7, 1987

FILE NO. SB 23

Chapter 3: Public participation in Governmental Operations

MCA sections 2-3-101 to 2-3-221

Title changed to "Public Participation in Public Operations"

SECTIONS

2-3-101 to read ...governmental agencies and public bodies.....

2-3-102 combined with 2-3-202

Add: "Public body means a commission, authority, board, council, committee, or any other group of two or more persons organized under the law of this state, and collectively empowered as a voting body to perform a public governmental function affecting the rights, duties, obligations, privileges, benefits, or other legal relations with any person, or collectively authorized to spend public funds. New Jersey S.A. 10:4-8(a).

2-3-103 to 2-3-113 remain the same

2-3-114 omit

2-3-203 to 2-3-212 remain the same

2-3-213 to read ...A suit or petition to void any such decision must be commenced within 30 days of the decision or aproval of minutes.

2-3-214 to 2-3-221 remain the same

Nancy Newcomer
LWV-Montana
12 Parsons Drive
Missoula, MT 59802
549-0328

SENATE JUDICIARY

EXHIBIT NO. 1, page 11

DATE Jan 7, 1987

BILL NO. SB 23

January 6, 1987

To whom it may concern:

For the past 8 years I have made it a practice to attend the Montana High School Board of Directors and Annual Meetings. Over the years it has been difficult to get agendas of the meetings and keep up with the occurring business of the Montana High School Association, as they set up rules and regulate Montana public high schools extra curricular activities.

An example of this difficulty occurred in attending the last Montana High School Association Meeting on November 23, 24, and 25, 1986.

I called the MHSA on Friday, November 21 to confirm that the Board of Directors were meeting and at what time this meeting would take place in Helena. I asked this question of the person answering the MHSA phone and was told the MHSA Board of Directors meeting would start at 9:00 A.M. Monday on November 24, 1986. In the past the Board of Directors has normally met in Helena at the MHSA office. At 8:50 A.M. Mrs. Henry and myself arrived at the MHSA office on Monday the 24th of November to find that the meeting was not being held there. The office person told us the meeting had been scheduled for Great Falls. We then had to travel to Great Falls to the Sheraton Hotel. We arrived there at 10:30 A.M. late for the meeting.

In the course of the meeting we were informed that the meeting had started in Great Falls on Sunday at around 4:00 P.M., this was a day earlier than we had been informed by the MHSA front office.

I believe that the OPEN MEETING law is an important part in making sure the public is able to participate and be informed on public issues. The MHSA makes very important decisions concerning extra curricular activities in our schools. Many of their decisions have financial impacts on our schools, such as Livingston faced in their travel situation this year. It is important that the tax-payer has recourse to the business and materials that affect their school systems.

Nancy B. Deden
210 Westview Dr.
Missoula, MT 59803
(406) 728-2844

Nancy Deden 1/6/87

Date

SENATE JUDICIARY

EXHIBIT NO. 2
DATE Jan 7th, 1987
BILL NO. 5823

NAME: Nancy DEDEN DATE: 1/7/88

ADDRESS: 210 WESTVIEW MSLA MT 59802

PHONE: 728-2844

REPRESENTING WHOM? PARENT OF High School Student

APPEARING ON WHICH PROPOSAL: SB 23

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

I'm Martha Onishuk, 5855 Pinewood Ln., Missoula. I thank you for the opportunity to testify on SB 23. Since the 1960's I have been interested in citizen participation in governmental operations and have testified many times before Legislative committees and state and local bodies. With this background in mind, I became interested, as a parent and a former high school teacher, in the activities of the Montana High School Association. I wish to use the MHSA as an example of changes needed in the Open Meetings Law.

The MHSA is different from any other organization which receives public funds. By its rule-making, the MHSA governs the spending by local school districts of approximately \$20 Millions statewide of public schools money. (In the Missoula County High School system-- comprised of 3 AA and 1 C Class schools--out of a budget of \$13.2 Millions, \$826 thousands is budgeted for extracurricular activities and this does not include salaries or transportation costs.)

How does the MHSA rule-making differ from the Board of Public Education accreditation standard rule-making? The State Board of Public Education must comply with the Administrative Rules of Montana which require the publication of proposed rules and changes in the State Register, the holding of public hearings, and the final decision-making by the Constitutionally-mandated Board of Public Education. The MHSA is a Montana corporation not referred to by name in school law. The only reference is in 20-1-211 which allows local school boards to join and to pay dues and travel expenses to participate in "educational associations." Yet MHSA rules control about 10% of the high school budgets statewide without public participation or hearings nor with input, oversight or review of the Legislature, the Board of Public Education or the Superintendent or Office of Public Instruction.

Why does MHSA have this hold? By its rules, a school cannot participate in any activities controlled by MHSA unless the school is a member of MHSA and follows its rules. Further, no MHSA school can play any games with a non-MHSA school. And only one organization in each state is allowed by the rules of the National Federation of School Associations.

SENATE JUDICIARY

EXHIBIT NO. 3

DATE Jan. 7th 1987

BILL NO. SB 23

2 Testimony on SB 23.

How does MHSA make its rules? At the annual January meeting, each school has one vote regardless of enrollment. The local School Board may send a member instead of an administrator. The only way a citizen may have any input in the rule-making is by addressing the local school board which can decide 1 of 183 votes. No public or citizen comment or participation is allowed before the voting body of delegates at the annual meeting. This procedure is very different from the rule-making procedure used by the Board of Public Education as required by the Administrative Rules of Montana when the B of PE adopts accreditation standard rules.

MHSA is the only organization in the state that, through its rules, determines the spending of at least \$20 MILLIONS of taxpayers money by the local school districts to participate in extracurricular activities without public, Legislative, board or agency input or participation.

I support the intent of SB23 to strengthen the Open Meetings Law. Any organization or association funded by public money should expect and welcome oversight by citizens, public officials and the press to justify receiving public support. Organizations in this category will probably oppose any accountability. They should not. If they accept public money, they are accepting accountability. I wish to propose two changes in the proposed legislation:

1. Under 2-3-203, add "(5) Any organization or association expending public funds whose policies and rules govern the spending of funds or the use of facilities and other resources of local or state governmental bodies shall be subject to the requirements of this section."
2. Under 2-3-102 Definitions (1) add at the end of this section "enter into contracts or any organization or association, funded in whole or in part by public funds, whose rules, decisions and policies dictate the spending of public money or the allocation of public resources by local or state governmental bodies."

SENATE JUDICIARY

EXHIBIT NO 3

DATE Jan. 7th, 1991

BILL NO. SB 23

As long as public money is involved and activities of public bodies are mandated by the decision of an organization or association, the citizens should have an opportunity to comment before any decisions are made.

3. Testimony on SB 23

Thank you for the opportunity to participate in government as guaranteed under Section 8 and 9 of the Bill of Rights of the Montana Constitution.

SENATE JUDICIARY

EXHIBIT NO 3

DATE Jan. 7, 1987

BILL NO. SB 23

January 5, 1987

To whom it may concern:

I have been working in the area of sex equity in high school athletics for over 10 years now and have found it very difficult to research any actions taken by the MHSA in regard to Montana High School athletic programs. I have been refused attendance in the past at their meetings and have had great difficulty in getting materials such as bulletins, minutes, conference directors, etc.

In June of 1986 I requested copies of MHSA's General Ledger-Transaction Register for the year of 1985. I enclosed a check for \$15.00 (which was cashed by MHSA. I received nothing from MHSA until August 1, 1986 at which time I was advised that their "attorneys advised them that the correct way to handle my request was to send me the Annual Auditor's Report." I immediately wrote stating I did not want the Annual Auditor's Report but had paid for and wanted the 1985 Ledger-Transaction Register.

I heard nothing from MHSA and on September 9, 1986, I informed my school district of the problem and requested that my school, a member of MHSA, request these Ledgers for me. I received the ledgers within 10 days. They were mailed directly to me.

I believe that the OPEN MEETING law must more clearly cover organizations such as MHSA who do school and other public business in order that the Montana tax-payer has recourse to information and materials important to them.

Eveline E. Curtis
Rt #1 Box 96 H
Eureka, MT 59917
(406) 889-3778

Eveline E. Curtis
Date

Madeline McGehee
NOTARY PUBLIC for the State of Montana
Residing at Eureka, Montana,
My commission expires 10/10/87

SENATE JUDICIARY

EXHIBIT NO. 4

DATE Jan. 7, 1987

BILL NO. SB 23

NAME: Nancy Newcomer DATE: 1/7/86

ADDRESS: 12 Parsons Dr Missoula

PHONE: 549-0328

REPRESENTING WHOM? MT- League of Women Voters

APPEARING ON WHICH PROPOSAL: Senate bill #23

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Bruce W. Moerer DATE: 1-7-57

ADDRESS: 1 So. Montana, Helena

PHONE: 442-2180

REPRESENTING WHOM? MSBA

APPEARING ON WHICH PROPOSAL: SB 23

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: oppose held in its present form

we do not know if it applies to MSBA

1) we do not dictate policies and procedures

2) we do not affect the rights, duties, obligations,
privileges, benefits or other legal relations
of any other person

3) we do not regulate our members or dictate
their expenditure of funds

if it does apply, we need clarification of the method
and timeliness of the notice requirements

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jessie W Long DATE: 1/7/86

ADDRESS: 515 N Sanders Helena

PHONE: 442-2510

REPRESENTING WHOM? School Admin of MT

APPEARING ON WHICH PROPOSAL: SB 23

DO YOU: SUPPORT? AMEND? OPPOSE? ✓

COMMENTS: We do not oppose Open Meeting laws
but we question the present form of the bill
It appears that SB 23 is aimed at MESA but
it is as a shotgun to a number of other issues.
Does it apply to our Assoc? The SAM does
not deny rights to students nor does it set
policy or procedures for school districts. This bill
would ~~apply~~ cause an additional heavy cost to
provide notice to 500 districts in the state.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 22, 1987

The twelfth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on January 22, 1987 by Chairman Joe Mazurek, in Room 325 of the state Capitol.

ROLL CALL: All members were present with the exception of Senators Galt and Pinsoneault, who were absent.

RECONSIDERATION OF SENATE BILL 23: Senator Halligan encouraged his amendments be accepted to Senate Bill 23, the open meeting law bill. He explained amendments 5, 7 and 8 on attached Exhibit 1. He said the bill now focuses on opening and assuring that meetings of associations of schools, like the MHSA, is specifically included in the open meeting law.

PROPOSERS: Gordon Morris, Montana Association of Counties, supported the bill because the Association of Counties is not brought into the bill in its amended form.

Nancy Newcomer, League of Women Voters of Montana, supported the amended bill.

Sandy Chaney, Women's Lobbyist Fund, supported the bill also. Written testimony attached as Exhibit 2.

Bruce W. Moerer, Montana School Board Association, stated he would like some clarification of SB 23. He said the Association wanted to know how they would notify people on a statewide basis of meetings. He explained there are statewide publications used by state agencies, but only state agencies can use them. He stated the Association questions their obligation to the law on who they notify and how, about a meeting, with the amended form of SB 23. He said MSBA would be glad to comply with it.

Kim Wilson, representing Common Cause, distributed a form which showed his amendments. Form attached as Exhibit 3. He supports the amended bill, but his changes make the language more consistent in sections 2-3-201 MCA through

2-3-221, MCA, which has inconsistent terms and definitions. Section 2-3-203 has a laundry list of groups that must follow the law. Mr. Wilson explained his proposal will put all the groups involved under one definition of public body. He said there is still no notice provision in the bill. He told the committee he also drafted a generalized policy statement on notice. He felt his language would help the problem of notice in this bill. He said Common Cause was in support of the amended bill, but would prefer his suggested changes.

OPPONENTS: Dan Freund, Montana High School Association, testified he was not against the bill, but needed clarification also. Mr. Freund gave the committee a copy of the MHSA adopted open meeting rule. (Exhibit 3a) He felt they have operated under the open meeting law, and he would answer any questions.

DISCUSSION OF SENATE BILL 23: Senator Blaylock questioned if public money is handled and used by MHSA.

Mr. Freund replied 75% of their income comes from basketball tournaments, which comes from the taxpayers.

Senator Blaylock asked if the MHSA would allow their books to be audited by the Legislative Auditor's office.

Mr. Freund said there was no problem with that. Mr. Freund mentioned money from tournaments was not tax dollars as no one is required to go and pay money at a tournament.

Senator Blaylock felt it would be wise for the MHSA to be cooperative with the legislature with an audit so we can report to the people about MHSA's operations.

Senator Beck asked if there was any provision for notices in the bill. Senator Halligan responded no, statute now does not give a notice provision.

Senator Yellowtail inquired of Senator Halligan, how would he respond to the applicability and implications of this law for the MSBA.

Senator Halligan stated they are included in the bill the way it is amended, and they do use part of public dollars. He said they probably have a network through the schools to the school boards if they have a publication to the schools about their meetings. He said the committee will have to deal with a notice provision.

Senator Mazurek asked if the Association of Counties and the MSBA object to their meetings being open to the public. Mr. Moerer of the MSBA said it doesn't bother them at all. The Association of Counties said they will follow strict interpretation of the open meeting laws, but we really don't want to be held to the notice requirement of 2 weeks notice before the meeting. He felt there was no notice question because the notice provision was elsewhere in state law in sections 2-3-102 and 2-3-104, MCA.

Senator Blaylock questioned Mr. Morris if his organization is run with public funds. Mr. Morris said that is correct. Senator Blaylock asked if citizens are free to come to their meetings. Mr. Morris answered they can without a doubt.

Senator Blaylock asked Bruce Moerer if anyone would be shut out of a school board meeting, because that is what happened to him several years ago. Mr. Moerer responded that can't happen now.

Senator Halligan closed by saying there should be no special legislation directed at one group, but when one is talking about one entity having a substantial amount of public funds involved in its operation, they should comply to the open meeting law. He hoped the committee will look at his amendments seriously, and also Kim Wilson's draft. He hopes the committee will support the bill as amended.

CONSIDERATION OF SENATE BILL 108: Senator Bishop, District 46, Billings, introduced Senate Bill 108, and said the bill would provide elections instead of appointments of district and supreme court justices. He said it would amend Article 7, Sections 6, 8, and 9 of the Montana Constitution. He said this did not arise because of the appointment of Judge Filner of the 13th Judicial District. He said on page 2, lines 5-18, everything is stricken except the provision of vacancy in the office of the Supreme Court Justice or District Court Judge by election provided by law. He explained the appointment process used at present. He said we have a judicial nominating commission that is set up by the MCA. He stated the commission is composed of seven members, including four lay people, two lawyers, and one district court judge. Thirty days after a vacancy occurs, this commission takes applications and screens the applicants. The commission

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 22nd 1987

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	X		
<u>Senator Bruce Crippen, Vice Chairman</u>	X		
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blaylock</u>	X		
<u>Senator Bob Brown</u>	X		
<u>Senator Jack Galt</u>	Excused		
<u>Senator Mike Halligan</u>	X		
<u>Senator Dick Pinsoneault</u>	Excused		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

COMMITTEE ON

DATE

Jan. 22

Senate Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Art Litch	MACE			
John Maynard	Tort Claims Div.	SB112	✓	
Bruce W. Moore	MSBA	SB 23	^{request} signature	
Sandy Chance	Women's Lobbyist Fund	SB 23	✓	
Beverly Henry		SB 23	✓	
Ray W. Noble	MFA	SB 23	✓	
Kirk Skinning	League of Women Voters	SB 23	✓	
Nancy Seiden	Parent of High School Student	SB 23	✓	
Sam W. Long	S.A. 'M'	SB 23		✓
Brenda Wiedinger	League of Women Voters	SB 23	✓	
Janet Wilson	L.W.V.	SB 23	✓	
Sharon Marie Sargent	League of Women Voters	SB 103		✓
John Wilson	Canadian Cons.	SB 23	✓	
Nancy Newman	L.W.V. - MONTANA	SB 23	✓	
Gordon Morris	MACE	SB 23		
Debra Jones	Women's Lobbyist Fund	SB 23	✓	
John Arnold	" "	SB 23	✓	
Patricia Kemp	L.W.V. Montana	SB 23	✓	
Maely Arnold	J. B. Morrison	SB 23	✓ w/ Arnold	
John M. Arnold	Leg. Assistant	SB 112	✓	

PROPOSED AMENDMENTS TO SB 23

SB 23, introduced compy (white), to amended as follows:

1. Title, lines 5 through 8.
Following: ~~"MEETINGS OF"~~ on line 5
Strike: ~~remainder~~ of line 5 through "ACTIVITIES" on line 8
Insert: "SCHOOL ASSOCIATIONS"
2. Page 1, line 13.
Following: ~~"-ageneies-"~~
Insert: "of public agencies"
3. Page 1, line 15.
Following: ~~"-governmental-"~~
Strike: ~~"the following"~~
Insert: "public or governmental"
4. Page 1, lines 15 through 17.
Following: "bodies ~~---~~ "
Strike: the remainder of line 15 through "(a)" on line 17
Insert: ","
5. Page 1, line 18.
Following: "of the state"
Strike: ~~"."~~
Following: ~~"or"~~
Insert: ", including associations of schools, or"
6. Page 1, line 19.
Strike: "(b)"
7. Page 1, line 21.
Strike: ~~"; or"~~
Insert: "must be open to the public."
8. Page 1, lines 22 through 25.
Strike: subsection (c) in its entirety

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917

SENATE JUDICIARY

EXHIBIT NO. 2

DATE

BILL NO.

Jan 22, 1987
SB 23

January 22, 1987

Testimony on SB 23

Mr. Chairman and members of the Judiciary Committee:

My name is Sandy Chaney and I am speaking to you today on behalf of the Women's Lobbyist Fund. WLF is a coalition of 39 organizations, representing over 6,500 women throughout the state. Women's Lobbyist Fund supports SB 23 as amended.

This proposed legislation would require the Montana High School Association to comply with open meeting laws. In the past, MHSA has discouraged rather than encouraged public attendance at its meetings. Yet the association is funded by public dollars and must be accountable for the important decisions it makes--decisions that shape high school athletic programs and extracurricular activities.

Women's Lobbyist Fund is specifically concerned with the decisions that the MHSA makes with regards to educational equity. We continue to strive for equal opportunity for women in education as well as in all aspects of our lives. WLF believes that keeping the door open to the Montana High School Association's meetings keeps the door open for further progress in educational equity.

SB 23 will ensure that the voice of the public is heard before MHSA makes decisions that will affect a number of parents and young adults. Women's Lobbyist Fund urges you to vote "yes" on SB 23.

2-3-201 - The legislative finds and declares that public bodies in this state, as defined in this section, exist to aid in the conduct of the people's business. It is the intent of this part that actions and deliberations of all public bodies shall be conducted openly. The people of this state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of this part shall be liberally construed.

2-3-202 - Meeting Defined.

As used in this part, "meeting" means the convening of a quorum of the constituent membership of a public body, whether corporal or by means of electronic equipment, regardless of the location of the meeting, to hear, discuss, or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power.

2-3-203 - Meetings to be open to public exception.

1. All meetings of public bodies must be open to the public. The following bodies shall constitute public bodies;

a. boards, bureaus, commissions and agencies of the state or any political subdivision of the state, or

b. organizations or associations supported in whole or in part by public funds which recommend or dictate policies and procedures governing publicly funded activities."

2. Provided, however, the presiding officer of any meeting

may close the meeting during the time the discussion relates to a matter of individual privacy, and then if, and only if, the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains, and in that event, the meeting shall be open.

3. A meeting may also be closed to discuss a strategy to be followed with respect to collective bargaining or ongoing litigation when the demands of individual privacy clearly exceed the merits of public disclosure.

2-3-204 - Notice

1. A public body must provide public notice of all meetings.
2. The notice must include:
 - a. a statement of the time, place, nature of the meeting and name of the public body.
 - b. a statement of the purpose of the hearing and any proposed decisions to be made at the hearing.
3. Notice must be published or aired in the local or state media most likely to reach the members of the public to be affected by the decisions to be made at the meeting.

2-3-212 - Keep.

SENATE JUDICIARY

EXHIBIT NO. 3

DATE Apr. 22, 1987

BILL NO. SB 23

2-3-212 - Keep.

2-3-213 - Voidability

Any decision made in violation of 2-3-203 may be declared void by a district court having jurisdiction. A suit to void any such decision must be commenced within 30 days of the date of the release to the public of minutes of the meeting.

2-3-221 - Keep as is.

The League of Women Voters of Montana

Testimony prepared by M.S. Davis, Helena, Montana

SB 108, Sen. Bishop, sponsor - an act proposing amendment to the Montana constitution to provide for the filling of vacancies in judicial offices by election rather than appointment.

The League of Women Voters opposes SB 108.

This bill would remove the governor's authority to fill judicial vacancies caused by death or resignation. The state constitution presently allows this with the participation of the Judicial Nominating Commission offering the governor a list of qualified nominees.

The method of selecting judges in Montana has been the subject of debate periodically over the years. The last major discussion was during the constitutional convention. Those who favored an all-elected judiciary compromised with those favoring merit selection of judges by appointment.

The League studied the method of selecting judges in 1974 and it was the consensus of our membership that an appointed judiciary offered more than an elected judiciary. The main problem with electing judges is having judicial candidates campaign against one another. The costs are high, especially for a statewide campaign. Funds must be raised and virtually all these funds come from attorneys and/or litigants who may appear before the court.

Judicial campaigns are not very informative for the voting public. Judicial candidates are loath to speak their minds on judicial philosophy or court administration issues. On the other hand they are not permitted by the Canons of Ethics to discuss particular cases or the specifics of how they might rule from the bench. As the candidates are not running on partisan slates, the voters have very little to guide them in choosing in a contested election. In an election where the candidate is not opposed, only a write-in campaign could prevent the filed candidate from winning the office. This proposed amendment to the constitution would not require that a first time unopposed candidate for judicial office face a retain or reject vote.

By and large the races of the Supreme and district courts do not receive much attention from the voters. It is often difficult to attract qualified attorneys to the bench because of the campaigning involved with the office. The League believes that scrapping the merit selection provisions in the state constitution is a step backward and urges that SB 108 be given a Do Not Pass recommendation.

NAME:

John Mr. Anthony

DATE:

1/22/2

ADDRESS:

Ann 135- St. Capitol

PHONE:

444-3203

REPRESENTING WHOM?

Leg. Assembly

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

☒

AMEND?

☒

OPPOSE?

☐

COMMENTS:

Support - question high dollar limit
Perhaps reduce \$25,000 to \$5,000

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 23, 1987

The thirteenth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on January 23, 1987 by Vice Chairman Bruce Crippen in Room 325 of the Capitol Building.

ROLL CALL: Senators Joe Mazurek and Bob Brown were late for the meeting and Senator Jack Galt was excused.

CONSIDERATION OF SB 119: Senator Cecil Weeding of Senate District #14 opened the hearing on SB 119 by saying the bill amends the Plain Language in Contracts Act to exempt all insurance policies from the Act, which requires all consumer contracts to be in "plain language". These policies are exempt from the Act because they are subject to the "Life and Disability Insurance Language Simplification Act" in the Insurance Code.

PROPOSERS: Les Loble of the American Council of Life Insurance gave out a hand out of the sections of 33-15-316 through 33-15-324 of the Contracts Act which involves insurance companies application exceptions. He said he agreed there were no problems with section 33-15-324 (see Exhibit 1).

Robert Throssett, from the State Auditor's Office, supported the bill (see Exhibit 2, written testimony).

Bonnie Tippy, American Insurers, said the organization supports the bill.

OPPOSERS: None

DISCUSSION ON SB 119: None

Senator Weeding closed.

ACTION ON SB 119: Vice Chairman Crippen said the committee should take action on SB 119. Senator Blaylock moved SB 119 DO PASS. The motion carried unanimously.

CONSIDERATION OF SB 114: Senator Gene Thayer of Senate District #19 introduced SB 114 as a housekeeping bill because it clarifies the filing of agricultural liens and termination statements of such liens to the Secretary of State's office and with the Clerk and Recorder's Office. He said it will provide a filing, instead of a copy at the state level.

PROPOSERS: Larry Avey of the Secretary of State's Office said this

from Gib Goodman, representative of Montana Grain Elevator Association (see Exhibit 3, written testimony).

The committee adjourned the hearings for executive action.

ACTION ON SB 52: Senator Brown stated the recording of insurance rates, presently, is unfunctionable. He said for the bill to work, there will have to be more F.T.E.'s apportioned. Senator Brown explained that the hearing schedule in the bill is only set when a rate is lower or higher than the band set by the State Auditor. Senator Crippen commented Montana is a different state than New York, and asked the committee to wait and see what this system will do in other states. He commented the entire Legislature will not be happy with the committee if they added a half a million into the general fund for extra F.T.E.'s. Senator Yellowtail had no problem with the insurance company attending a hearing to justify their rate settings. Senator Crippen said the present file and rate system can approve rates. Senator Brown moved to TABLE SB 52, because he felt the committee couldn't accept the fiscal note of SB 52. Senator Yellowtail said that if this system is not in place, then the consumers will pay for it. Senator Mazurek pointed out that what the state has now, the state can "limp" along with, because it is funded, but if the new system passed, then the Legislature is looking at more funding. Senator Brown said he would ask the Insurance Commissioner how much money he would need to get by if this bill went into action. Senator Beck thought if the Legislature would give the present system enough money that it might work better. The motion carried to TABLE SB 52 (see ROLL CALL VOTE SHEET).

ACTION ON SB 20: Senator Halligan gave the committee amendments prepared by Valencia Lane (see Exhibit 4). Senator Halligan explained that the committee had already made some changes in the bill (see standing committee report, amendments #1 and #2, January 19, 1987). Mr. George Bennett, Montana Banker Association, commented on the amendment that was given today. He felt the lien should start the day the lien is filed with the Clerk and Recorder. He said the proposed amendment gives five more days to a 20 day lien notices. He felt the notice days of the lien should be shorten to 15 days if this amendment goes through. Senator Halligan said the consumer should be the one that knows about the lien first. Senator Brown moved the amendment that Senator Halligan presented today. The motion carried.

Senator Halligan moved the bill DO PASS AS AMENDED. The motion carried.

ACTION ON SB 23: Valencia Lane handed the committee amendments and a gray bill (see Exhibit 5 and 6). Senator Halligan stated the amendments eliminated the Montana School Board Association's involvement in this bill. Senator Mazurek had concern about the word "affect" in amendment 8, because school boards may not regulate, but they have an effect on

many lives. Senator Halligan moved amendments #1 through #9 and struck the word "affect" from amendments #8. Senator Crippen asked if there was still a notice problem (see Exhibit 7, written testimony). Valencia Lane stated now that the school boards are excluded from the bill because of the amendments, there is not as much concern about the notice provision. The amendments passed.

Senator Halligan moved the bill DO PASS AS AMENDED. The motion carried.

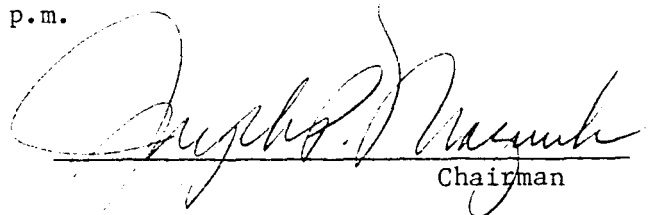
ACTION ON SB 96: Valencia Lane presented amendments to the committee (see Exhibit 8). Senator Blaylock moved the amendments. Senator Mazurek inquired what would happen if someone abused an elder person and then 30 years later is convicted for the same offense. Valencia Lane said she could insert a "reasonable time" period between incidents before the incident could be considered a felony. Senator Mazurek felt the word "shall" on page 1, line 23, should be stricken from the bill so it gives the judge more discretion in the sentencing process. Senator Blaylock felt if a person is convicted of a misdemeanor for abusing an elder person, it really doesn't matter how long it takes the misdemeanor offender to do the second abuse incident before calling it a felony. Valencia explained that she took out the language defining felony in her amendments:

"a \$1,000 fine or not less than one year in prison"

She said if the language is left in, then a felony offense is in the bill. Senator Mazurek said a felony doesn't have a mandatory minimum amount of time spent in jail so that definition should be taken out of the bill. The committee agreed. Senator Mazurek made a substitute motion to strike "shall" from line 23 and insert "and upon conviction may". Senator Blaylock withdrew his first motion and moved the finalized amendments with the committee's recommendations. The motion carried. (see Exhibit 9 the standing committee report).

Senator Mazurek felt the wrongful discharge amendment heard at the hearing by Rose Skoog should be in the civil code instead of the criminal code. Senator Brown moved the bill DO PASS AS AMENDED.

The committee adjourned at 12:00 p.m.


Chairman

Proposed amendments to SB 23, introduced copy (white).:

1. Title, lines 5 through 8.

Following: "MEETINGS OF" on line 5

Strike: remainder of line 5 through "ACTIVITIES" on line 8

Insert: "CERTAIN ASSOCIATIONS OF PUBLIC AGENCIES"

2. Page 1, line 13.

Following: "agencies"

Insert: "of public agencies and certain associations of public agencies"

3. Page 1, line 15.

Following: "governmental"

Strike: "the following"

Insert: "public or governmental"

4. Page 1, lines 15 through 17.

Following: "bodies," on line 15

Strike: the remainder of line 15 through "(a)" on line 17

Insert: ","

5. Page 1, line 18.

Following: "of the state"

Strike: ";"

Following: "or"

Insert: "or"

6. Page 1, line 19.

Strike: "(b)"

7. Page 1, line 21.

Strike: "; or"

Insert: "must be open to the public."

8. Page 1, lines 22 through 25.

Following: line 21

Strike: subsection (c) in its entirety

Insert: "(2) All meetings of associations that are composed of public or governmental bodies referred to in subsection (1) and that regulate or affect the rights, duties, or privileges of any individual must be open to the public."

Renumber: subsequent subsections

9. Page 2, line 15.

Following: "body"

Insert: "or an association described in subsection (2)"

7022b/L:JEA\WP:jj

SENATE BILL NO. 23

INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT MEETINGS OF ORGANIZATIONS---THAT---HAVE---PUBLIC--AGENCY REPRESENTATIVES--AS-MEMBERS-AND-THAT-CONSIDER,--RECOMMEND,--OR DICTATE--POLICIES--AND--PROCEDURES-GOVERNING-PUBLICLY-FUNDED ACTIVITIES CERTAIN ASSOCIATIONS OF PUBLIC AGENCIES MUST BE OPEN TO THE PUBLIC; AND AMENDING SECTIONS 2-3-202 AND 2-3-203, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-3-203, MCA, is amended to read:

"2-3-203. Meetings ~~of---public--agencies~~ OF PUBLIC AGENCIES AND CERTAIN ASSOCIATIONS OF PUBLIC AGENCIES to be open to public -- exceptions. (1) All meetings of ~~public-or governmental~~ the-following PUBLIC OR GOVERNMENTAL bodies, ~~must-be-open-to-the-public-~~

~~(a)~~ boards, bureaus, commissions, agencies of the state, or any political subdivision of the state, ~~er~~ OR

~~(b)~~ organizations or agencies supported in whole or in part by public funds or expending public funds ~~shall-be-open to-the-public.-~~ or MUST BE OPEN TO THE PUBLIC.

~~(c)---organizations-or-associations---with---members---from any-of-the-public-entities-described-in-subsection-(2)(a)-or~~

~~(2)(b)-and-that-consider,-recommend,-or-dictate-policies-and
procedures-governing-publicly-funded-activities-~~

(2) ALL MEETINGS OF ASSOCIATIONS THAT ARE COMPOSED OF
PUBLIC OR GOVERNMENTAL BODIES REFERRED TO IN SUBSECTION (1)
AND THAT REGULATE OR AFFECT THE RIGHTS, DUTIES, OR
PRIVILEGES OF ANY INDIVIDUAL MUST BE OPEN TO THE PUBLIC.

~~(2)(3)~~ Provided, however, the presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting shall be open.

~~(3)(4)~~ However, a meeting may be closed to discuss a strategy to be followed with respect to collective bargaining or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the public agency.

~~(4)(5)~~ Any committee or subcommittee appointed by a public body OR AN ASSOCIATION DESCRIBED IN SUBSECTION (2) for the purpose of conducting business which is within the jurisdiction of that agency shall be subject to the requirements of this section."

Section 2. Section 2-3-202, MCA, is amended to read:

1 "2-3-202. Meeting defined. As used in this part,
2 "meeting" means the convening of a quorum of the constituent
3 membership of a public agency or association described in
4 2-3-203, whether corporal or by means of electronic
5 equipment, to hear, discuss, or act upon a matter over which
6 the agency has supervision, control, jurisdiction, or
7 advisory power."

-End-

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 23rd

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>			
<u>Senator Bruce Crippen, Vice Chairman</u>	X		
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blaylock</u>	X		
<u>Senator Bob Brown</u>			
<u>Senator Jack Galt</u>			
<u>Senator Mike Halligan</u>	X		
<u>Senator Dick Pinsoneault</u>	X		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 23 19 37

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration SENATE BILL No. 23

first reading copy (white)
color

Expand the open meeting law.

Respectfully report as follows: That SENATE BILL No. 23

1. Title, lines 5 through 8.

Following: "MEETINGS OF" on line 5

Strike: remainder of line 5 through "ACTIVITIES" on line 8

Insert: "CERTAIN ASSOCIATIONS OF PUBLIC AGENCIES"

2. Page 1, line 13.

Following: "agencies"

Insert: "of public agencies and certain associations of public agencies"

3. Page 1, line 15.

Following: "governmental"

Strike: "the following"

Insert: "public or governmental"

4. Page 1, lines 15 through 17.

Following: "bodies," on line 15

Strike: the remainder of line 15 through "(a)" on line 17

Insert: ","

5. Page 1, line 13.

Following: "of the state"

Strike: "1"

~~XXXXXX~~
DO NOT PASS

~~XXXXXXXXXX~~ CONTINUED ON SECOND PAGE

Chairman.

SB 23

Page 2

Following: "or"

Insert: "or"

6. Page 1, line 19.

Strike: "(b)"

7. Page 1, line 21.

Strike: "1 or"

Insert: "must be open to the public."

8. Page 1, lines 22 through 25.

Following: line 21

Strike: subsection (c) in its entirety

Insert: "(2) All meetings of associations that are composed of public or governmental bodies referred to in subsection (1) and that regulate the rights, duties, or privileges of any individual must be open to the public."

Re-number: subsequent subsections

9. Page 2, line 15.

Following: "body"

Insert: "or an association described in subsection (2)"

7022b/L:JZA\WP:jj

AND AS AMENDED

DO PASS

STATUS SHEET

50th LEGISLATIVE SESSION

State Administration COMMITTEE

SENATE BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURI IN AS AMENDE DATE
14	2/23/87	3/13/87						3/13/87			
21	2/4/87	3/3/87						3/3/87			
23	2/4/87	3/3/87						3/11/87			
72	2/4/87	3/4/87						3/4/87			
93	2/4/87	3/4/87						3/4/87			
123	2/4/87	3/5/87						3/5/87			
124	2/4/87	3/5/87						3/5/87			
128	2/23/87	3/13/87						3/13/87			
136	2/24/87	3/10/87								3/17/87	
149	2/4/87	3/11/87	3/11/87					3/14/87			
153	2/4/87	3/4/87						3/4/87			
161	2/18/87	3/5/87						3/5/87			
165	2/4/87	3/4/87						3/4/87			
197	2/11/87	3/10/87						3/10/87			

se a separate sheet for Senate Bills, House Bills, and Resolutions.

**MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES**

March 11, 1987

The meeting of the State Administration Committee was called to order by Chairman Sales on March 11, 1987 in Room 437 of the State Capitol at 9:00 a.m.

ROLL CALL: Rep. Moore was excused. All other committee members were present.

CONSIDERATION OF SENATE BILL NO. 279: Senator Keating, Senate District #44 and sponsor of the bill, stated that the purpose of the bill is to give administrators authority and direction to develop a security policy for accessing mainframe computer information. An audit report revealed that administration management for use of the mainframe computer was not as tight as it could be. The bill was amended in the Senate to alleviate concerns that additional personnel may be necessary. The bill entails common sense establishment of authority and responsibility.

PROPOSERS: None.

OPPOSERS: None.

DISCUSSION OF SENATE BILL NO. 279: Chairman Sales asked to have the fiscal note explained. Sen. Keating replied that the amendments deleted specific requirements such as conducting and updating a risk analysis that would have required a study. The fiscal note no longer applies, and implementation can be carried out without additional personnel or expense.

Rep. Cody asked if instances have occurred where someone broke into the computer getting "classified" information. Sen. Keating replied that the auditors found invasion into the system very easy, which brought up the security question. Jim Pellegrini, Office of the Legislative Auditor (OLA) replied that in 47 out of 127 samples, access was gained easily in various agencies such as the Secretary of State, Department of Livestock, Workers' Compensation, Department of Highways, and Department of Revenue.

highway patrol and game wardens allow 40% retirement with 20 years of service even though the full retirement benefit is 50% after 25 years of service. Over the years all retirement systems have changed benefits and rates of contribution to the benefit of some and detriment of others. In 1983 the teachers' system was changed to allow early retirement without penalty, and it was advantageous to the young teachers who kept their jobs. The contribution rate increased from 6.1% to 7.04% to cover the cost. Senate Bill No. 149 is not talking about a benefit increase; it simply takes away a penalty that no other system has. Representative Spaeth has volunteered to carry the bill.

CONSIDERATION OF SENATE BILL 23: Mike Halligan, Senate District #29 and sponsor of the bill, stated that the bill is developed to deal with the constitutional provisions concerning the right to know with respect to open meetings, as government ought to be open to public meetings. The question is whether an association, specifically the Montana High School Association (MHSA), is considered a public body and subject to open meetings. The bill states:

All meetings of associations that are composed of public or governmental bodies . . . who regulate the rights, duties, or privileges of any individual must be open to the public.

PROPONENTS: Kim Wilson, Common Cause, stated that the controversy that brought up the issue concerns the MHSA, which claimed that the open meeting law does not apply to the Association. Mr. Wilson distributed a suggested amendment (Exhibit # 8) changing the word "agency" to "body" (p. 3, l. 3).

Nancy Newcomer, League of Women Voters, distributed Chapter 3 of the statutes, and MHSA's response that it does not have to comply with the open meeting law (Exhibit #9). She suggested that giving notice be specified, such as using local newspapers for local notice, and state bodies using the three top circulating newspapers, i.e. the "Billings Gazette", "Great Falls Tribune", and "Missoulian".

Sandy Chaney, Women's Lobbyist Fund, supported the bill, and distributed written testimony (Exhibit #10).

OPPONENTS: Mike Colbrese, MESA, explained that the Association, due to a recent lawsuit, is following the open meeting law. The out-of-state meetings are held in conjunction with the national organization meeting for economic purposes.

DISCUSSION OF SENATE BILL NO. 23: Rep. Cody asked if the Association does not establish policy as far as sports are concerned. Mike Colbrese replied that policy is made by member schools. Suggested policy changes are submitted by member schools and voted on by the entire membership.

Rep. Cody asked Marty Onishouk whether she agreed with Mr. Colbrese. Marty Onishouk disagreed stating that policies are set at the annual meeting but made many times during the year by the executive director or the Board. A friend called to verify a Monday morning meeting in Helena on Friday afternoon, but was told when she arrived at the meeting place that the meeting was moved to Great Falls. The organization has dragged its feet every step of the way on educational equity. Its rules and regulations dictate \$20 million dollars of state and school district money to join its activities; twenty percent of the high school budgets are spent on extra curricular activities. This private organization spends foundation money as well as local and voted mill levies. Athletics are very important to the schools, and the whole process should be open to the public.

Sen. Halligan closed discussion on Senate Bill No. 23 by stating that the constitutional convention notes voice strong support for open meetings for agencies that have control over public dollars. There is no notice required in the open meeting law, but the Supreme Court states that unspecified but reasonable notice must be given. The legislature ought to stipulate guidance.

DISPOSITION OF SENATE BILL NO. 23: Rep. Phillips moved the bill BE CONCURRED IN, seconded by Rep. Cody.

Rep. Whalen moved a DO PASS ON THE AMENDMENTS submitted by Kim Wilson. After a brief discussion, Lois Menzies stated that 2-3-203 refers to:

All meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or political subdivisions of the state.

State Administration Committee
March 11, 1987
Page - 11 -

In order to make the language parallel in 2-3-202 and 203, the committee may want to insert "agency, body, bureau, or commission".

Rep. Nelson stated that agencies and bodies are used in several places and the wording is only a semantic difference. The motion to pass on the amendments was not seconded.

Rep. Whalen moved a DO PASS ON THE AMENDMENTS submitted by Nancy Newcomer. The motion was not seconded.

The BE CONCURRED IN motion passed (13-5) with Reps. Haynes, Peterson, Compton, Jenkins, and Sales voting no. Rep. Cody will carry the bill.

DISPOSITION OF SENATE BILL NO. 260: Rep. Campbell moved the bill BE CONCURRED IN, seconded by Rep. Cody. Chairman Sales stated that write-in electors should give notice of acceptance or be disqualified. Rep. Cody asked if notification is made to an individual who is elected on a write-in ballot.

Lois Menzies stated that 13-15-406 states:

The election administrator shall deliver a certificate of nomination or election to each individual declared elected by the board.

Committee consensus was to postpone the vote until Lois Menzies has an opportunity to advise the committee if further clarification may be necessary.

DISPOSITION OF SENATE BILL NO. 279: Rep. Campbell moved the bill BE CONCURRED IN, seconded by Rep. Compton. The motion passed (13-5) with Reps. Cody, Jenkins, Holliday, Whalen, and Peterson voting no.

DISPOSITION OF SENATE BILL NO. 149: Rep. Campbell moved the bill BE CONCURRED IN, seconded by Rep. Compton.

Rep. Jenkins made a substitute motion that the BE TABLED. Rep. O'Connell opposed the motion. Rep. Jenkins withdrew the motion to table the bill.

DAILY ROLL CALL

State Administration

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-11-87

NAME	PRESENT	ABSENT	EXCUSED
Walt Sales	✓		
John Phillips	✓		
Bud Campbell	✓		
Dorothy Cody	✓		
Duane Compton	✓		
Gene DeMars	✓		
Harry Fritz	✓		
Harriet Hayne	✓		
Gay Holliday	✓		
Loren Jenkins	✓		
Janet Moore		✓	
Richard Nelson	✓		
Helen O'Connell	✓		
Mary Lou Peterson	✓		
Paul Pistoria	✓		
Rande Roth	✓		
Tonia Stratford	✓		
Timothy Whalen	✓		

STANDING COMMITTEE REPORT

March 11

1987

Mr. Speaker: We, the committee on STATE ADMINISTRATION

report SB 23

☐ do pass
☐ do not pass

☒ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Walter R. Sales

Chairman

EXPAND OPEN MEETING LAW

Rep. Cory to carry the bill.

third reading copy (blue)
color

STATE ADMINISTRATION

BILL NO. SB 23

SPONSOR SENATOR HALLIGAN

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

CS-33

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917



11 March 1987

Mr. Chairman and members of the committee:

My name is Sandy Chaney. I am representing the Women's Lobbyist Fund. We support Senate Bill 23.

The Montana High School Association has remarked frequently that it conducts its meeting according to the open meeting law, even though it is not required to do so. In the past, however, MHSA has discouraged rather than encouraged public attendance at its meetings. Senate Bill 23 requires the MHSA to abide by the open meeting law. This bill is a measure of clarification that will alleviate the discrepancy between reports voiced by the public and claims made by the MHSA.

The MHSA receives public dollars and must account for the important decisions it makes—decisions about finances and funding, decisions about the organization and development of high school extracurricular activities and athletic programs.

The Women's Lobbyist Fund is particularly concerned about the decisions of MHSA with regards to educational equity. MHSA has resisted our efforts to promote sex equity in education. Since 1983 the Lobbyist Fund has worked to promote equality of opportunity for young women and men. The MHSA also has a responsibility to work for equality of opportunity in the activities of young adults.

The MHSA has important responsibilities; it must be responsible in meeting its obligations. Requiring the MHSA to hold open meetings ensures that it will be held more accountable for its decisions.

The Women's Lobbyist Fund favors this bill. It received the support of the Senate. We ask that you, too, support this bill. Thank you.

EXHIBIT # 10
DATE 3-11-87
HB 513 23



TO: SENATOR MIKE HALLIGAN
FROM: NANCY NEWCOMER, MONTANA LEAGUE OF WOMEN VOTERS
RE: SENATE BILL 23, PROPOSED NOTICE PROVISION
DATE: MARCH 2, 1987

NOTICE

1. A public body must provide public notice of all meetings
2. The notice must include:
 - a. a statement of the time, place, nature of meeting and the name of the public body.
 - b. a statement of the purpose of the meeting and any proposed decisions to be made.
2. Notice will be provided in the following manner:
 - a. Local public bodies are public bodies whose sphere of authority is within one county. Local public bodies will publish a minimum of 24 hours of notice in the local newspaper with the largest circulation as of January 1, 1987. Circulation will be reviewed yearly. Only on yearly review of circulation can the newspaper serving notice be changed.
 - b. State public bodies are public bodies whose sphere of authority is within two or more counties. State public bodies will provide a minimum of seven days notice. Individuals may request written notice of all meetings of a public body. State public bodies will publish all meeting notices in a newspaper as defined below. The newspaper will be one of the three major daily newspapers in Montana. The three daily newspapers will be determined by circulation as of January 1, 1987 and reviewed every five years. Only on the five year review can the newspaper of notice change.

RESEARCH NOTE

From the December 12, 1986 Standard Rate and Data Service.
Sunday circulation of Montana newspapers

Billings	60,394
Bozeman	13,190
Butte	17,627
Great Falls	41,520
Helena	13,797
Kalispell	13,863
Missoula	30,800

c.c. Representative Earl Lory
Kim Wilson, Common Cause Lobbyist



Montana High School Association

1 South Dakota Avenue Helena, MT 59601 (406) 442-6010

June 25, 1986

Nancy Newcomer, Director
12 Parsons Drive
Missoula, MT 59802

Dear Ms. Newcomer:

Please be advised that the answer to your letter received in this office on June 14, 1986, asking for copies of the public notice that was given prior to the March 5 and 17, 1986 MHSA conference call meetings, I would advise you as follows.

Under the conditions set forth we do not believe that it was necessary to give public notice prior to the conference phone calls on March 5th and 17th. The business was conducted as per the open meeting law with all access to telephone speakers available and all interested parties.

Sincerely,

MONTANA HIGH SCHOOL ASSOCIATION

Dan L. Freund
Executive Secretary

DLF:rcw
cc: Ron Waterman

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COPY

SENATE BILL NO. 23

INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT MEETINGS OF ORGANISATIONS---THAT---HAVE---PUBLIC---AGENCY REPRESENTATIVES-AS-MEMBERS-AND-THAT-CONSIDER, RECOMMEND, OR DICTATE--POLICIES--AND--PROCEDURES-GOVERNING-PUBLICLY-FUNDED ACTIVITIES CERTAIN ASSOCIATIONS OF PUBLIC AGENCIES MUST BE OPEN TO THE PUBLIC; AND AMENDING SECTIONS 2-3-202 AND 2-3-203, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-3-203, MCA, is amended to read:

"2-3-203. Meetings of---public---agencies OF PUBLIC AGENCIES AND CERTAIN ASSOCIATIONS OF PUBLIC AGENCIES to be open to public -- exceptions. (1) All meetings of public-or governmental-the-following PUBLIC OR GOVERNMENTAL bodies, must-be-open-to-the-public:

(a) boards, bureaus, commissions, agencies of the state, or any political subdivision of the state; or OR

(b) organizations or agencies supported in whole or in part by public funds or expending public funds shall-be-open-to-the-public-or MUST BE OPEN TO THE PUBLIC.

(c) --organizations-or-associations--with--members--from the-public-entities-described-in-subsection-(2)-(a)-or

~~(2)(b)-and-that-consider, recommend, or dictate policies and procedures governing publicly-funded activities.~~

(2) ALL MEETINGS OF ASSOCIATIONS THAT ARE COMPOSED OF PUBLIC OR GOVERNMENTAL BODIES REFERRED TO IN SUBSECTION (1) AND THAT REGULATE THE RIGHTS, DUTIES, OR PRIVILEGES OF ANY INDIVIDUAL MUST BE OPEN TO THE PUBLIC.

(2)(3) Provided, however, the presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting shall be open.

(3)(4) However, a meeting may be closed to discuss a strategy to be followed with respect to collective bargaining or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the public agency.

(4)(5) Any committee or subcommittee appointed by a public body OR AN ASSOCIATION DESCRIBED IN SUBSECTION (2) for the purpose of conducting business which is within the jurisdiction of that agency shall be subject to the requirements of this section."

Section 2. Section 2-3-202, MCA, is amended to read:

REFERENCE BILL

SB 23

SB 0023/02

1 "2-3-202. Meeting defined. As used in this part,
2 "meeting" means the convening of a quorum of the constituent
3 membership of a public agency or association described in
4 2-3-203, whether corporal or by means of electronic
5 equipment, to hear, discuss, or act upon a matter over which
6 the agency has supervision, control, jurisdiction, or
7 advisory power."

-End-